



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Department
P. O. Box 1720
Rancho Cordova, CA 95741-1720

STEVE WESTLY
Chair

JOHN CHIANG
Member

MICHAEL C. GENEST
Member

May 2006, Franchise Tax Board Litigation Roster

All currently active cases and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list of new cases that have been added to the roster for the month is also provided, as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: <http://www.ftb.ca.gov/law/litrstr/index.html>.

The Litigation Rosters for the last four years may be found on the Internet site.

FRANCHISE AND INCOME TAX
Closed Cases – May 2006

Case Name

Court Number

None

FRANCHISE AND INCOME TAX
New Cases – May 2006

Case Name

Court Number

Garcia, W. Roche and Glenda L. San Francisco Superior Court No. CGC06452218

**FRANCHISE AND INCOME TAX
MONTHLY REFUND LITIGATION ROSTER**

May 2006

CITY NATIONAL CORPORATION v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC334772
Court of Appeal, 2nd Appellate District No. B189240

Filed – 06/10/05

Taxpayer's Counsel

Kenneth R. Chiate, Mary S. Thomas
Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP

FTB's Counsel

Donald R. Currier
Joseph M. O'Heron

Sherrill Johnson

Offices of the General Counsel City National Bank

- Issues:
1. Whether Plaintiff improperly engaged in tax shelter transaction involving Regulated Investment Trusts (REITs) and Regulated Investment Companies (RICs) during the subject years.
 2. Whether certain subsidiaries were exempt from California taxation as IRC 501(c)(15) entities.
 3. Whether Plaintiff has satisfied the requirement of exhausting all administrative remedies in order to maintain a lawsuit.

Years: 1999 through 2003

Amount \$84,676,129.00

Status: Plaintiff/Appellant's Stipulation of Extension of Time to June 30, 2006, to file Opening Brief and Appendix, filed on April 25, 2006.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS00707

Filed - 02/07/03

Taxpayer's Counsel

Eric J. Coffill, Carley A. Roberts
Morrison & Foerster, LLP

FTB's Counsel

Steven J. Green

- Issues:
1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
 2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years: 1974 through 1982, 1984 through 1987, 1989 through 1991

Amount \$2,912,696.00

Status: Order to Stay Proceeding signed by Judge Virga on November 29, 2004, until a decision is reached in the *General Motors v. FTB* case.

CRISA CORPORATION v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC345087

Taxpayer's Counsel

Steven Toscher, Michel R. Stein

Hochman Salkin, Rettig, Toscher & Perez, P.C.

Filed - 12/23/05

FTB's Counsel

Donald Currier

Issues: 1. Whether the plaintiffs' California income can be determined upon the basis of a combined report including its foreign parent.
2. Whether the amount of income allocated and apportioned to California was properly determined.
3. Whether regulation 25106.5-10 was properly applied to account for inflation experienced by the parent's company.
4. Whether the denial of the use of alternative allocation and applicant methods under section 25137 was an abuse of discretion.

Years: 1987 through 1989**Amount** \$622,800.00**Status:** **Plaintiff's Case Management Statement filed on May 16, 2006. Case Management Conference scheduled for June 6, 2006.****DILTS, WALTER B. JR. AND PHYLLIS A. KAPPELER v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC04436496

Taxpayer's Counsel

R. Todd Luoma

Law Office of Richard Todd Luoma

Filed - 11/19/04

FTB's Counsel

Anne Michelle Burr

Issue: Whether Plaintiffs ceased to be California residents as of December 16, 1994.**Years:** 1994 and 1995**Amount** \$973,101.00**Status:** Defendant's Notice of Settlement and Response to Order to Show Cause, and Stipulation for Conditional Settlement filed on April 20, 2006.**GALASKI, GREGORY JOHN v. Franchise Tax Board**

San Diego Superior Court Docket No. IC833950

Court of Appeal, 4th Appellate District, Div. 1, Case No. GIC858678Taxpayer's Counsel

Gregory Galaski, In Pro Per

Filed - 08/09/04

FTB's Counsel

Gregory S. Price

Issues: 1. Whether Plaintiff filed claims for refund for each of the years.
2. Assuming claims for refund were filed whether there was an overpayment of tax.

Years: 1999 through 2003**Amount** \$13,092.37**Status:** **Order Denying Second Request for Reconsideration filed on April 11, 2006.**

GARCIA, W. ROCKE AND GLENDA L. v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC 06452218
Taxpayer's Counsel
William J. McLean
Thoits, Love, Hershberger & McLean

Filed – 05/12/06
FTB's Counsel
Kristian Whitten

Issues: 1. Whether Plaintiffs exhausted administrative remedies prior to filing suit.
2. Whether Plaintiffs timely acquired a replacement property for property involuntarily converted so as to defer recognition of gain pursuant to IRC §1033.
3. Whether penalties authorized by section 19777.5(a) were properly imposed.

Year: 1992 **Amount** \$616,076.00

Status: Plaintiffs' Summons and Complaint were filed on May 12, 2006, and served by mail on the Franchise Tax Board on May 16, 2006.

GENERAL ELECTRIC COMPANY AND SUBSIDIRIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC06-449157

Filed – 02/03/06

Taxpayer's Counsel

FTB's Counsel

Amy L. Silvertin

David Lew

Silverstein & Pomerantz, LLP

Jeffrey M. Vesely

Pillsbury, Winthrop, Shaw, Pittman, LLP

Issues: 1. Whether the penalty imposed by section 19777.5(a) on amounts due and payable on March 31, 2005, for years beginning before January 31, 2003, violates the Due Process Clause of the United States Constitution.
2. What is the meaning of "due and payable" for purposes of section 19777.5(a) of the Revenue and Taxation Code?

Years: (None) **Amount** \$0.00

Status: Plaintiff's First Amended Complaint filed on May 10, 2006.

GENERAL MILLS, INC. & SUBSIDIARIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05-439929

Filed – 03/29/05

Taxpayer's Counsel

FTB's Counsel

Thomas H. Steele

Marguerite Stricklin

Andres Vallejo, Jeffrey S. Terraciano

Morrison & Foerster LLP

Issues: 1. Whether the taxpayer's payroll factor was properly computed by excluding foreign employee stock options.
2. Whether the taxpayer's sales factor was properly calculated by excluding receipts from commodities transactions and short-term financial instruments.
3. Whether federal RAR adjustments were properly taken into account.

Years: 1992 through 1997

Amount \$3,550,367.00

Status: Trial is scheduled for June 12, 2006. **Order on Joint Motion to Continue Jury Trial to February 20, 2007, was filed on May 16, 2006. Mandatory Settlement Conference was rescheduled to June 8, 2006.**

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC269404
Court of Appeal, 2nd Appellate District No. B165665
California Supreme Court No. S127086

Filed - 03/06/02

Taxpayer's Counsel

Charles R. Ajalat
Law Office of Ajalat, Polley & Ayooob

FTB's Counsel

Stephen Lew
Donald Currier
Joseph O'Heron

- Issues:
1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
 2. Whether interest income was properly characterized as business income.
 3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
 4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
 5. Whether various receipts from intangible assets were properly excluded from the sales factor.
 6. Whether research tax credits were properly limited to the entity incurring the expense.
 7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
 8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
 9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years: 1986 through 1988

Amount \$10,692,755.00

Status: Oral Argument scheduled for June 2, 2006.

HAMEETMAN, FRED AND JOYCE v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC 305968
Court of Appeal, 2nd Appellate District No. B187278

Filed - 11/12/03

Taxpayer's Counsel

Eric L. Troff, Esq.
Gibbs, Giden, Locher & Turner, LLP

FTB's Counsel

Donald Currier

Issue: Whether Plaintiffs were entitled to a business bad debt reduction.

Years: 1990 and 1993

Amount \$65,738.00

Status: **Plaintiffs/Appellants' Opening Brief and Appendix filed on May 26, 2006.**

HYATT, GILBERT P. v. Franchise Tax Board

Clark County Nevada District Court No. A382999

Taxpayer's Counsel

Thomas L. Steffen & Mark A. Hutchison

Hutchison & Steffen, H. Bartow Farr III

Filed - 01/06/98

FTB's Counsel

James W. Bradshaw

McDonald, Carano,

Wilson LLP

Las Vegas, Nevada

- Issues:
1. Whether plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
 2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
 3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years: 1991 and 1992

Amount \$7,545,492.00 Tax
\$5,659,119.00 Penalty

Status: Clark County District Court:
Discovery proceeding.

JIBILIAN, TONY & DOROTHY v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC298685

Court of Appeal 2nd Appellate District Court No. B175952

California Supreme Court No. S142011

Taxpayer's Counsel

Derek L. Tabone, Esq.

Law Offices of Tabone, APC

Filed – 07/09/03

FTB's Counsel

Brian Wesley

Elisa Wolfe-Donato

Issue: Whether Plaintiffs have taxable income for the years involved.

Years: 1999 through 2001

Amount \$208,742.00

Status: **Petitioner's Petition for Review denied on May 10, 2006.**

KIM, PAUL M. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC333465

Taxpayer's Counsel

Yoon Han Kim

Law Offices of Yoon Han Kim & Assoc.

Filed – 05/13/05

FTB's Counsel

Donald R. Currier

- Issues:
1. Whether taxpayer had income from payments received as the result of a lawsuit.
 2. Whether taxpayer had a loss arising from foreclosure of property.
 3. Whether the taxpayer filed a claim for refund.

Year: 1993

Amount \$16,098.46

Status: Notice of Continuance of Trial to July 25, 2006.

KUHN, DAVID & ELIZABETH v. Franchise Tax Board

Alameda Superior Court Docket No. WG05212795

Taxpayer's Counsel

David N. Kuhn

Attorney at Law

Filed – 05/13/05

FTB's Counsel

David Lew

Issues: 1. Whether Plaintiffs timely filed claims for refund.
2. Whether estoppel should lie against the Board for failing to notify Plaintiffs of the statute of limitations.

Years: 1994 through 1996Amount \$18,090.48

Status: Discovery proceeding. Case Management Conference continued to June 26, 2006. Hearing on FTB's Motion for Summary Judgment scheduled for June 13, 2006.

THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board

Alameda Superior Court Docket No. 837723-0

Court of Appeal, 1st Appellate District Court No. A102915

California Supreme Court No. S136922

Taxpayer's Counsel

Edwin P. Antolin

Morrison & Foerster, LLP

Filed - 04/09/01

FTB's Counsel

Joyce Hee

Issues: 1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years: 1993 and 1994Amount \$2,185,718.00

Status: Petition for Review granted on October 26, 2005. Further action in this matter is deferred pending consideration and disposition of a related issued in General Motors and Microsoft or pending further order of the court.

LUCAS, LADONNA v. Franchise Tax Board

Los Angeles Superior Court Docket No. BS102039

Taxpayer's Counsel

LaDonna Lucas, In Pro Per

Filed – 03/08/06

FTB's Counsel

Felix Leatherwood

Issues: 1. Whether the Superior Court has jurisdiction to consider the action filed by the Plaintiff.
2. Whether Appellant qualifies as a head of household for the year 2002 and 2003.

Years: 2002 and 2003Amount \$?

Status: Hearing on Petition scheduled for July 3, 2006. **Defendant's Notice of Return by Demurrer and Demurrer to Petition for Writ of Mandate, and Memorandum of Points and Authorities filed on May 11, 2006.**

MARKEN, DONALD W. & CLAUDINE H. v. Franchise Tax Board

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1st Appellate Dist. No. A091644

California Supreme Court No. S 104529

Court of Appeal, 1st Appellate Dis. No. A109715

Court of Appeal, 1st Appellate District No. A110668 (Attorneys' Fees)

Taxpayer's Counsel

William E. Taggart, Jr.

Taggart & Hawkins

FTB's Counsel

Marguerite Stricklin

Issue: Whether plaintiffs were residents of California in 1993.

Year: 1993

Amount \$244,012.00

Status: Defendant/Respondent's Brief filed under A110668 on May 23, 2006.

THE MCGRAW-HILL COMPANIES, INC., a New York Corporation v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 03424737

Filed - 09/24/03

Court of Appeal, 1st Appellate Dist. Div. One No. A109907

California Supreme Court No. S143330

Taxpayer's Counsel

Jeffrey M. Vesely, Richard E. Nielsen & Annie H. Huang

Pillsbury Winthrop, LLP

FTB's Counsel

Anne Michelle Burr

Issues: 1. Whether Plaintiff was entitled to use Marked-to-Market accounting allowed under the Internal Revenue Code when those provisions had not been adopted by California.
2. Whether other adjustments made or allowed by the Internal Revenue Service should be allowed by California.

Years: 1993 and 1994

Amount \$606,744.00

Status: Plaintiff/Appellant's Petition for Review filed on May 9, 2006. Defendant/Respondent's Answer to Petition for Review filed on May 26, 2006.

MICROSOFT CORPORATION v. Franchise Tax Board

San Francisco Superior Court Docket No. 400444
Court of Appeal, 1st Appellate Dist. Div. 3 No. A105312
California Supreme Court No. S133343

Filed - 10/19/01

Taxpayer's Counsel

James P. Kleier, Esq.
Reed Smith LLP

FTB's Counsel

Julian O. Standen

Joseph Patton Powers
Baker & McKenzie

Issues: 1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year: 1991 Amount \$1,879,809.00

Status: **Order scheduling Oral Argument for June 2, 2006. Plaintiff/Respondent Microsoft's Request for Judicial Notice granted on May 11, 2006. Plaintiff/Respondent Microsoft's Supplemental Brief addressing new authority filed on May 19, 2006.**

MONTGOMERY WARD LLC v. Franchise Tax Board v. Franchise Tax Board

San Diego Superior Court Docket No. GIC802767

Filed - 12/30/02

Taxpayer's Counsel

Antolin, Pilar M. Sansone, Amy Silverstein
Silverstein & Pomerantz, LLP

FTB's Counsel

Domini Pham

Issues: 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years: 1989 through 1994 Amount \$2,694,192.00

Status: Status Conference held on March 17, 2006, and continued to September 15, 2006.

NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS05705

Filed - 10/10/03

Taxpayer's Counsel

Spencer T. Malysiak
Spencer T. Malysiak Law Corp.

FTB's Counsel

Michael Cornez

- Issues: 1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.
2. Whether a declaratory relief action can be brought to prevent the collection of tax.
3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.
4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years: 1996 and 1997

Amount \$90,773.05

Status: Trial Setting Conference rescheduled to May 15, 2006.

NEWS AMERICA INCORPORATED (FOX, INC.) v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC350576

Filed – 04/12/06

Taxpayer's Counsel

FTB's Counsel

Neil R. O'Hanlon

Felix E. Leatherwood

Hogan & Hartson, LLP

- Issues: 1. Whether the Franchise Tax Board properly classified gain realized on the sale of an interest in a partnership as nonbusiness income.
2. If the gain on the sale of the interest in a partnership was nonbusiness income, whether it should be allocated to New York.
3. Whether the assignment to California of the gain realized on the sale of the partnership fairly reflects the activities of the taxpayer in this state.

Year: 1989

Amount \$1,726,405.00

Status: **Defendant's Answer to Complaint filed on May 17, 2006.**

NORTHWEST ENERGETIC SERVICES, LLC v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05-437721

Filed – 01/15/05

Taxpayer's Counsel

FTB's Counsel

Amy L. Silverstein, Edwin Antolin

Marguerite Stricklin

Silverstein & Pomerantz

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clauses.

Years: 12/31/97 through 12/31/01

Amount \$25,067.00 Tax
\$ 3,764.29 Penalty

Status: **Judgment entered in favor of Plaintiff on May 4, 2006.**

ORDLOCK, BAYARD M. & LOIS S. v. Franchise Tax Board

Los Angeles Superior Court Case No. BC278386
Court of Appeal, 2nd Appellate Dist. No. B169465
California Supreme Court No. S127649

Filed - 07/25/02

Taxpayer's Counsel

Clayton Vreeland
Bingham McCutchen LLP

FTB's Counsel

Amy J. Winn

Issue: Whether the tax involved was timely assessed.

Year: 1983

Amount \$12,350.00

Status: Oral Argument held on April 4, 2006.

PLAYMATES TOYS, INC. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC344785

Filed – 12/19/05

Taxpayer's Counsel

Craig J. Stein
Gelfand, Stein & Wasson, LLP

FTB's Counsel

Joseph M. O'Heron

Issue: Whether Defendant Franchise Tax Board properly computed the numerator of the taxpayer's California sales factor by assigning sales made from Hong Kong to California.

Years: 1988 through 1990

Amount \$1,582,288.00

Status: **Status Conference held on May 24, 2006.**

SHAFRAN, ALLEN J. & TOBY v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC 316070
Court of Appeal, 2nd Appellate Dist. No. B186947

Filed – 05/25/04

Taxpayer's Counsel

W. Patrick O'Keefe, Jr.
W. Patrick O'Keefe, Jr. Incorporated

FTB's Counsel

Anthony F. Sgherzi

Issue: Whether the denial of a deduction for depreciation based upon a federal adjustment was proper.

Year: 1992

Amount \$45,415.00 Tax

Status: Plaintiffs/Appellants' Reply Brief filed on April 10, 2006.

SQUARE D COMPANY v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC05442465

Taxpayer's Counsel

Allan L. Schare, Kimberly M. Reeder
McDermott Will & Emery LLP
Palo Alto, Ca.

Richard A. Hanson
McDermott Will & Emery LLP
Chicago, IL

Filed – 06/21/05

FTB's Counsel

Paul Gifford

Issues: 1. Whether Palatine Hills Leasing, which invested in leverage lease transactions, was part of the unitary business conducted by Square D Company.
2. Whether the income of Palatine Hills Leasing constituted business income of the unitary business conducted by Square D Company.
3. How the proceeds from the short-term investment of funds should be reflected in the sales factor of the apportionment formula.

Years: 1985 through 1990Amount \$5,635,087.40

Status: **Mandatory Settlement Conference advanced from September 5, 2006, to August 15, 2006.**
Trial scheduled for September 18, 2006.

**STAPLES, MARK A. v. Taxpayer Advocate Bureau, Franchise Tax Board, and
State Board of Equalization**

Sacramento Superior Court Docket No.04AS03598

Taxpayer's Counsel

Mark A. Staples, In Pro Per

Filed – 09/03/04

FTB's Counsel

Michael J. Cornez

Issues: 1. Whether the method used by California to compute the tax owed by part-year resident violates various provisions of the United States Constitution.
2. Whether the department's review and disposition of the plaintiff's objections to additional tax were properly handled.

Year: 1998Amount \$1,141.00

Status: Judgment By Court Pursuant to Code of Civil Procedure Section 437c in favor of Defendant filed on April 5, 2006.

TOY'S "R" US, INC. & AFFILIATES v. Franchise Tax Board

Sacramento Superior Court Docket No. 01AS04316

Court of Appeal, 4th Appellate Court No. C045386**California Supreme Court No. S143422**Taxpayer's Counsel

Eric J. Coffill
Carley A. Roberts
Morrison & Foerster, LLP

Filed - 07/17/01

FTB's Counsel

Michael J. Cornez

Issue: Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years: 1991 through 1994

Amount \$5,342,122.00

Status: **Order Modifying Opinion, Denying Request for Partial Depublication of Opinion, and Denying Rehearing filed on May 4, 2006 (no change in judgment). Plaintiff/Appellant's Petition for Review filed with California Supreme Court on May 11, 2006. Defendant/Respondent's Answer to Petition for Review filed on May 31, 2006.**

UNION BANK OF CALIFORNIA v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 05441957

Taxpayer's Counsel

James P. Kleier, Brian Toman, John R. Messenger
Reed Smith, LLP

Filed – 06/06/05

FTB's Counsel

Anne Michelle Burr

Issues: 1. Whether additions to the bad debt reserves of the taxpayer's unitary business were properly calculated.
2. Whether there were losses arising from the exchange of loans for bonds that are deductible as ordinary losses.
3. Whether the water's-edge election fee assessed violated the Commerce Clause of the United State Constitution.

Year: 1991

Amount \$15,953,167.00

Status: Mandatory Settlement Conference rescheduled to October 26, 2006. Trial scheduled for November 13, 2006.

VENTAS FINANCE I, LLC v. Franchise Tax Board

San Francisco Superior Court Docket No. 05-440001

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin
Silverstein & Pomerantz, LLP

Filed – 04/01/05

FTB's Counsel

Marguerite Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax based upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clause.

Years: 2001 through 2003

Amount \$29,580.00

Status: Minutes, Master Short Cause Calendar of May 8, 2006, assigned to Trial Court at 1:30 p.m. Plaintiff's Stipulation to Continued Briefing filed May 24, 2006. Order Continuance of Briefing schedule filed May 26, 2006.

VERTULLO, JOHN & BARBARA v. Franchise Tax Board

San Diego Superior Court Docket No. GIC848577

Taxpayer's Counsel

Denis W. Retoske, Esq.

Filed – 06/07/05

FTB's Counsel

Leslie Branman Smith

Issues: 1. Whether Plaintiffs are entitled to a deduction with respect to funds allegedly embezzled by a business associate during the years at issue.
2. Whether Notices of Proposed Assessment mailed with an incorrect zip code were adequate.
3. Whether Plaintiffs failure to raise the address issue in their appeal of a denial of a Claim for Refund to the Board of Equalization limits their use of that ground in a suit for refund after denial of their appeal.

Years: 1975 and 1978Amount \$56,155.95Status: Defendant's Answer to Complaint filed on August 8, 2005. Trial scheduled for June 1, 2006.**YOSHINOYA WEST, INC. v. Franchise Tax Board**

Los Angeles Superior Court, Central District No. BC274343

Court of Appeal, 2nd Appellate Dist. No. B178751Taxpayer's Counsel

Dwayne M. Horii,

William C. Choi

Rodriguez, Horii & Choi

Filed - 05/22/02

FTB's Counsel

Donald R. Currier

Issues: 1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.
2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.

Years: 1986 and 1987Amount \$1,741,534.00Status: Oral Argument held on April 11, 2006.